IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

WP(C).No. 6022 of 2007(P)

AGAINST THE ORDER DATED 07/04/2005 IN IA 72/2005 IN AS.13/2005 of ADDL.DISTRICT COURT,KOTTAYAM

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PETITIONERS:

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1. **ANNAMMA JOHN, S/O.JOHN, RESIDING AT ERIKATTU HOUSE, THAZHATHANGADY, KOTTAYAM.**

2. **E.J.JOHN, ERIKATTU HOUSE, THAZHATHANGADY, KOTTAYAM.**

3. **JIKKU JOHN, S/O.JOHN, ERIKATTU HOUSE, THAZHATHANGADY, KOTTAYAM, REP. BY HIS POWER OF ATTORNEY HOLDER, 2ND PETITIONER.**

BY ADV. SRI.K.SURENDRA MOHAN

RESPONDENTS:

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1. **ST.GEORGE GRACY MEMORIAL CHURCH, PARATHODU, REP. BY ELEZABETH JACOB, RESIDING AT ILLICKAL HOUSE, THRIPUNITHURA ROAD, ERNAKULAM, KOCHI-18.**

2. **ANNAMMA VARGHESE, CHERUMALA THEKKETHIL, RESIDING AT AYAVAN VAZHEKIZHAKETHIL, MANGARAM KARA, PANTHALAM.**

3. **VIJI VARGHESE, CHERUMALA THEKKETHIL, RESIDING AT AYAVAN VAZHEKIZHAKKETHIL, MANGARAM KARA, PANTHALAM.**

4. **P.K.VINOD KUMAR, ADVOCATE RECEIVER, COURT VIEW COMPLEX, NEAR POLICE PARADE GROUND, COLLECTORATE P.O., KOTTAYAM-686 002.**

..2/-

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*ADDL. R5 TO R7 ARE IMPLEADED:

R5. REJI K.MATHEW, S/O.LATE K.T.MATHEW,\
AGED 43 YEARS, KANNANTHANAM HOUSE,
PARATHODU P.O., KANJIRAPPALLY,
KOTTAYAM DISTRICT.

R6. K.C.JACOBKUTTY,
S/O.ABRAHAM P.C.,
AGED 70 YEARS, KUNNATHU HOUSE,
PARATHODU P.O., KANJIRAPPALLY,
KOTTAYAM DISTRICT.

R7. K.T.KURIAN,
S/O.THOMAS K.K.,
AGED 72 YEARS, KADAMANKUINNEL,
CHITTADY P.O., KOTTAYAM DISTRICT.

(*ADDL.R5 TO R7 ARE IMPLEADED AS PER ORDER DTD. 28/05/2007
IN I.A. NO.5846/2007))

BY ADV. SRI.RAJEEV V.KURUP for R1
SRI.M.P.MADHAVANKUTTY for R4
SRI.SHAJI P.CHALY for Addl.R5 to R7

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/05/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF ORDER DTD. 7/04/2005 OF THE DISTRICT COURT, KOTTAYAM.**

EXT.P2: **COPY OF KALPANA NO.206/2000 DTD. 18/08/2000.**

EXT.P3: **COPY OF KALPANA NO.99/2005 DTD. 10/06/2005.**

EXT.P4: **COPY OF REPORT OF THE 4TH RESPONDENT DTD. 6/02/2007 TO THE DISTRICT COURT, KOTTAYAM.**

EXT.P5: **COPY OF OBJECTIONS TO THE REPORT FILED BY THE PETITIONERS.**

EXT.P6: **COPY OF OBJECTIONS TO THE REPORT FILED BY MRS. ELEZABETH JACOB.**

EXT.P7: **COPY OF ORDER DTD. 15/02/2007 OF THE ADDL. DISTRICT COURT, KOTTAYAM IN A.S.NO.13/2005.**

/TRUE COPY/

KSS

M.N.KRISHNAN, J.

WP(C)No. 6022 OF 2007 P

Dated this the 28th May, 2007.

JUDGMENT

This writ petition is preferred against the order of the Additional District Judge, Kottayam dated 15.2.2007. By the said order the learned Additional District Judge allowed Father Mathews Kurian to continue as vicar for performing the services in the disputed church. A perusal of the order would reveal that the previous vicar viz., Father Joseph did not attend the church on 29.1.2007 and thereby caused hindrance in the performance of service in the church without any reason. The order states that the official receiver was compelled to engage other priest for performing the service in the church. It was under such circumstances he appointed Father Mathews Kurian and as per the impugned order dated 15.2.2007 it is directed to continue till further orders. Learned counsel for the writ petitioners as well as the counsel who appeared for the party has got himself impleaded in the writ petition would contend that Father Mathews Kurian is incompetent to continue as vicar for performing the services in the disputed church and it is only to create confusion and factional dispute such an appointment is made. On the other hand counsel for the other side would contend that it is not so. The suit is filed between two sisters claiming

their entitlement to manage the church etc. and after the original suit was disposed of, appeal is preferred and it is pending before the appellate court. By passing an interim order at this stage interfering with the order of the learned Additional District Judge, I do not want to add further confusion and therefore, I feel, in the interest of justice and in the fitness of things it is only just and proper to direct the learned Additional District Judge, Kottayam to dispose of A.S.13/2005 pending before the said court, within a frame work of six weeks from today.

2. The registry is directed to issue a copy of this judgment to the Additional District Judge, Kottayam. Till that time, the order passed by the Additional District Judge, Kottayam shall continue and if there arises any further problem, the parties are directed to move the Additional District Court for appropriate orders in the matter after making the receiver also as a party in the said petitions. If any difficulty arises, the parties are at liberty to move the District Court for appropriate directions.

Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

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